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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,839	10/12/2001	David L. Latimer	264/028US	1705
33451	7590	06/30/2004	EXAMINER TRAIL, ALLYSON NEEL	
PSC SCANNING, INC. - STOEL RIVES LLP C/O STOEL RIVES LLP 900 SW 5TH AVENUE PORTLAND, OR 97204			ART UNIT 2876	PAPER NUMBER

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/976,839

Applicant(s)

LATIMER ET AL.

Examiner

Allyson N Trail

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29, 31-53, 56-60, and 81-86 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-29, 31-53, 57-60 and 81-83 is/are allowed.
- 6) ☒ Claim(s) 56 and 84-86 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 May 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Amendment

1. Receipt is acknowledged of the Amendment filed April 05, 2004.

Remarks

2. The previous office action mailed on December 23, 2003, indicated claims 1-29, 37-45, 47, 48, and 60 to be allowable over prior art. Additionally, claims 32-36, 49, 51-53 and 57-59 were indicated to be allowable if rewritten in independent form. Claim 58 was already written in independent form and the Examiner regrets any misunderstanding. Claims 30, 31, 46, 50, 56, 61, and 62 were rejected under 35 U.S.C. 102(e) as being anticipated by Keys et al (6,394,351). With the current amendment, claims 30, 61, and 62 were cancelled, claims 31, 46, 50, and 56 have been amended, claims 32, 34-36, 49, 51-53, 57, and 58 have been rewritten in independent form, and claims 81-86 have been added. The amendments to claims 31, 46, 50, and 56 overcome the art rejection by Keys et al. Regarding claims 31, 46, and 50, it is agreed that it would not have been obvious to one of ordinary skill in the art to combine various teachings to come up with the claimed invention, however, regarding claim 56 it is believed that combining a teaching of an RFID label reader to the teachings of Keys et al would be obvious to one of ordinary skill in the art. Therefore claims 1-53, 57-60, and 81-83 are allowable over prior art and claims 56 and 84-86 stand rejected.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 56 and 84-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keys et al (6,394,351) in view of Schlieffers et al (6,394,355).

“Bar code scanners are presently used in numerous applications, and help to increase efficiency and accuracy wherever they are used. The use of bar code scanners in retail transactions decreases the time required to enter a transaction, and decreases the chance of an error during manual entry of data.” (Col. 1, lines 30-35).

“Reconstruction of the location of a bar code label in space and time allows the determination of the speed and direction of the label as it is passed over the scanner. This allows the scanner to be programmed to give feedback to a cashier to assist in self-training to improve the efficiency of utilization of the scanner. The time and space data also makes it possible to capture improved first pass read metrics to allow a store manager to determine which cashiers are most efficient and which need further training.” (Col. 2, line 63 - col. 3, line 4).

Keys et al teaches monitoring how the user moves the item past the scanner. This will include monitoring the ergonomics of the operating technique.

“The present invention relates to bar code scanners. More particularly, the invention relates to methods and apparatus for collecting and recording time and mirror position information during bar code scans.” (Col. 1, lines 24-26).

Keys et al fails to teach the data reader being a device selected from the group consisting of an RFID reader or an EAS deactivation device.

Schlieffers et al teaches the following in regards to claims 56 and 84-86:

“In the event the system is to read other machine coded labels or tags, the bar code reader could also be replaced or accompanied by an appropriate reader such as an electromagnetic reader, RFID reader or EAS deactivation module.” (Col. 9, lines 42-46).

In view of Schieffers et al's teachings it would have been obvious to one of ordinary skill in the art at the time the invention was made to use either an RFID reader or an EAS deactivation device taught by Schieffers et al in place of the barcode reader taught by Keys et al. Both the barcode readers and the RFID readers are used during checkout at shopping centers. Many checkout stations include both readers for convenience. As disclosed by Schieffers et al, barcode readers and RFID readers are interchangeable and therefore it would have been obvious to replace the barcode reader with an RFID reader. One would be motivated to use an RFID reader in place of a barcode reader because the RFID reader offers additional benefits such as easier label reading. RFID readers are able to read the item label when it is in close proximity to the RFID reader as opposed to a barcode reader, which needs to scan an exact location. This makes for faster and more convenient reading of items.

Allowable Subject Matter

5. Claims 1-53, 57-60, and 81-83 are allowed over prior.

The following is an examiner's reason for allowance: Although prior art teaches performance evaluation methods, the above identified prior art of record, taken alone, or in combination with any other prior art, fails to teach or fairly suggest the specific

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features of claims 1-53, 57-60, and 81-83. The best prior art of record fails to specifically teach or fairly suggest the method of training a data reader operator or method of scanning, which are disclosed in the claims. Limitations not disclosed in prior art obtaining optimum read technique data of an operator, comparing the read technique data to the optimum read technique data to determine an effectiveness of the reading technique, and providing feedback indicating the effectiveness of the reading technique. Additionally, prior art fails to teach comparing the dynamic weight to the optimum dynamic weight data to determine an extent of lifting performed by the operator and providing data regarding the extent of lifting to at least one of the training systems. Furthermore, prior art fails to teach the feedback means comprising a visual feedback display on the housing, which is visible to the operator and the visual feedback display being in the form of a graphical display. Additionally, prior art fails to teach a weigh scale as defined in the remarks submitted by the applicant. The claimed dynamic weigh scale is a partial weight or a weight operation function, therefore it is not simply how much the item weighs as taught by Keys et al. Lastly, prior art fails to teach determining which of the first and second window accomplished the reading of the item. Moreover, one of ordinary skill in the art would not have been motivated to come to the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Allyson N. Trail* whose telephone number is (571) 272-2406. The examiner can normally be reached between the hours of 7:30AM to 4:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571) 272-2398. The fax phone number for this Group is (703) 872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [allyson.trail@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.



Allyson N. Trail
Patent Examiner
Art Unit 2876
June 27, 2004